

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US03/18505

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☒ the international application as originally filed.
- ☒ the description:  
pages 1-10 as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
pages 11-15, as originally filed  
pages NONE, as amended (together with any statement) under Article 19  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
pages 1-2, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
pages NONE, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4. ☐ The amendments have resulted in the cancellation of:**

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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International application No.  
PCT/US03/18505**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>8-10, 13-29</u>	YES
	Claims <u>1-7, 11, 12</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-29</u>	NO
Industrial Applicability (IA)	Claims <u>1-29</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-4, 6, 7, 11, and 12 lack novelty under PCT Article 33(2) as being anticipated by Rodriguez et al (US 5,484,401). Rodriguez discloses a drainage device as claimed.

Claims 1-7 lack novelty under PCT Article 33(2) as being anticipated by Wakabayashi (US 6,299,593). Wakabayashi discloses a drainage device as claimed.

Claims 1-29 lack an inventive step under PCT Article 33(3) as being obvious over Wakabayashi ('525) in view of Wakabayashi ('593).

Wakabayashi ('525) discloses the invention substantially as claimed. Wakabayashi ('525) discloses a drainage system including a vacuum source, a drainage tube connected to the vacuum source at one end and inserted inside a body cavity at the other end, a one-way valve, and a vacuum chamber. However, Wakabayashi ('525) fails to disclose the tube having holes at the body-inserted end, the tube having at least 100 holes, the size of the tube being 20F or smaller, and the dimensions of the holes as claimed.

Wakabayashi ('593) discloses a drainage catheter having at least 100 holes at the body-inserted end. Given the teachings, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wakabayashi ('525) by substituting Wakabayashi's ('525) catheter with Wakabayashi's ('593) catheter as merely constitute substitution of functionally equivalent suction devices in order to improve the drainage and flow between the catheter. Also, the dimensions of the holes does not solve any stated problem, it is considered a mere matter of design alternative, and therefore obvious.

**NEW CITATIONS**

US 5,484,401 A (RODRIGUEZ et al) 16 January 1996 (16.01.1996), See figs. 1-6.